

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 627

Introduced by Assembly Member Brownley
(Coauthor: Assembly Member Hall)

February 25, 2009

An act to add Section 49546.5 to the Education Code, and to add Section 1596.804 to the Health and Safety Code, relating to child nutrition.

LEGISLATIVE COUNSEL'S DIGEST

AB 627, as amended, Brownley. Child care: nutritional requirements.

(1) Under existing law, the California Child Day Care Facilities Act, the State Department of Social Services licenses and regulates child day care facilities, as defined. A willful or repeated violation of these provisions is a misdemeanor.

This bill would require that a licensed child day care facility meet specified health and nutrition-related requirements. This bill would exempt a child day care facility from these requirements, as prescribed, for a child with a documented medical necessity *that prevents compliance*. ~~By changing the definition of a crime, the bill would create a state-mandated local program. The bill would require compliance with these provisions by a child day care facility by January 1, 2011, and would provide that a facility shall annually self-certify compliance to the department. It would provide that noncompliance shall not result in civil or criminal penalties or penalties related to licensure.~~

(2) Under existing law, the State Department of Education administers the child care food program pursuant to federal law, under which food is provided to child development programs and alternative child care programs, as defined.

~~This bill would, to the extent allowed by federal law, and if an increase in the reimbursement rate for the program occurs, require a participating entity to meet specified health and nutrition criteria, including the above-described requirements of the bill, as a condition for receipt of funds pursuant to the child care food program.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

This bill would require the Superintendent of Public Instruction to establish an 18-month pilot program in which licensed child care centers and child day care homes selected by the department that participate in the federal Child and Adult Care Food Program shall implement certain nutrition and physical activity standards in exchange for a higher state meal reimbursement. This bill would require the State Department of Education to design and implement the pilot program, as specified. The bill would specify that its provisions shall only be implemented if the Superintendent determines that non-General Fund funding sources are available for that purpose, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Almost 20 percent of children between two years of age and
- 4 five years of age in California are overweight or obese, and
- 5 research shows that the condition is difficult to reverse at
- 6 adolescence or in adulthood.
- 7 (b) Research demonstrates that taste preferences and lifelong
- 8 healthy habits are formed in early childhood years.
- 9 (c) Recent changes to school meals to improve nutrition need
- 10 to be ~~complemented~~ *complemented* with changes to the nutrition
- 11 environment in child care.

1 (d) Recent research demonstrates that the nutrition environment
2 in child care could be improved by encouraging low-fat dairy
3 products, fresh fruits and vegetables, and whole grain products.

4 (e) The State of California has a strong policy and financial
5 involvement in the licensed child care system and in the health
6 and safety of children while they are engaged in that system.

7 ~~SEC. 2. Section 49546.5 is added to the Education Code, to~~
8 ~~read:~~

9 ~~49546.5. (a) Except as provided in subdivision (b), and to the~~
10 ~~extent allowed by federal law, if an increase in the reimbursement~~
11 ~~rate under this program occurs on or after January 1, 2010, a~~
12 ~~participating entity shall, as a condition for receipt of funds~~
13 ~~pursuant to this article, comply with all of the following:~~

14 ~~(1) Comply with the health requirements set forth in Section~~
15 ~~1596.804 of the Health and Safety Code.~~

16 ~~(2) Limit the serving of fried potatoes to a maximum of one~~
17 ~~time per week.~~

18 ~~(3) Limit the serving of sweet grains, including, but not limited~~
19 ~~to, toaster pastries, cookies, coffee cake, sweet rolls, doughnuts,~~
20 ~~or cakes, to no more than two times per week, and only as snacks.~~

21 ~~(4) Provide at least one serving of a whole grain product per~~
22 ~~day.~~

23 ~~(5) Limit serving hot dogs, SPAM, luncheon meats, and other~~
24 ~~processed meat products to a maximum of three times per week.~~

25 ~~(6) Not serve sugar-sweetened or artificially sweetened~~
26 ~~beverages.~~

27 ~~(7) Not serve canned fruits and vegetables that contain added~~
28 ~~sweeteners other than 100 percent juice.~~

29 ~~(b) If a child has a medical necessity, documented by a~~
30 ~~physician, that prevents a participating entity from complying with~~
31 ~~the requirements of subdivision (a), then the participating entity~~
32 ~~shall be exempt from those requirements, to the extent necessary,~~
33 ~~for purposes of that child only.~~

34 ~~SEC. 2. Section 49546.5 is added to the Education Code, to~~
35 ~~read:~~

36 ~~49546.5. (a) The Superintendent of Public Instruction shall~~
37 ~~establish an 18-month pilot program in which licensed child care~~
38 ~~centers and child day care homes selected by the department that~~
39 ~~participate in the federal Child and Adult Care Food Program~~
40 ~~(42 U.S.C. Sec. 1766) shall implement certain nutrition and~~

1 *physical activity standards in exchange for a higher state meal*
2 *reimbursement.*

3 *(b) The department shall design and implement the pilot*
4 *program established pursuant to this section. The department may*
5 *convene a stakeholder group to provide advice on the design,*
6 *implementation, and evaluation of the pilot program.*

7 *(c) The department shall contract with an independent agency*
8 *to evaluate the implementation and outcomes of the pilot program.*
9 *The evaluation shall be completed within one year of the conclusion*
10 *of the pilot program. The evaluation shall include, at a minimum,*
11 *all of the following:*

12 *(1) The health, nutrition, and other related outcomes of the pilot*
13 *program on children served in the participating child care centers*
14 *and child day care homes, the child care providers, and the*
15 *parents.*

16 *(2) The resulting changes in food and beverages provided, and*
17 *physical activity occurring, at the participating child care centers*
18 *and child day care homes.*

19 *(3) The fiscal impact of the policies and standards developed*
20 *at participating child care centers and child day care homes.*

21 *(4) Recommendations for improvements or additions to the pilot*
22 *program.*

23 *(d) This section shall only be implemented if the Superintendent*
24 *determines that non-General Fund funding sources, including, but*
25 *not limited to, federal funding or grant sources, are available to*
26 *implement this section. If the Superintendent makes a determination*
27 *that non-General Fund funding sources are available, he or she*
28 *shall file a declaration to that effect with the Senate and Assembly*
29 *Committees on Education.*

30 SEC. 3. Section 1596.804 is added to the Health and Safety
31 Code, to read:

32 1596.804. (a) Except as provided in subdivision (b), *and*
33 *subject to subdivision (c)*, a licensed child day care facility shall
34 comply with all of the following health requirements:

35 (1) Meals and snacks shall include, at a minimum, the amount
36 of food and the components that are specified in Section 226.20
37 of Title 7 of the Code of Federal Regulations in effect on December
38 31, 2009.

39 (2) Only lowfat or nonfat milk shall be served to children over
40 two years of age.

(3) Juice shall be limited to a maximum of one serving per day, and only ~~100 percent~~ 100-percent juice shall be served.

(4) At least one vegetable shall be served at lunch and supper.

(5) Deep fat frying shall be prohibited onsite.

(6) Sugar shall be limited to 6 grams per serving for both hot and cold cereals.

~~(7) For children in full day care, screen time, including, but not limited to, television, video games, and computer usage, shall be limited to a maximum of one hour per day and shall be limited to quality programming. For children in less than full day care, screen time shall be reduced proportionately.~~

~~(8)~~

(7) Water shall be accessible and available for consumption throughout the day.

(b) If a child has a medical necessity, documented by a physician, that prevents a child day care facility from complying with the requirements of subdivision (a), then the facility shall be exempt from those requirements, to the extent necessary, for purposes of that child only.

(c) *A licensed child care facility shall comply with this section by January 1, 2011.*

(d) *A licensed child care facility shall, on an annual basis, self-certify to the department compliance with this section.*

(e) *Notwithstanding any other provision of this chapter, failure to comply with this section shall not result in, or be considered in, the loss of licensure, or result in any civil or criminal penalties.*

~~SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~